

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE: : CHAPTER 11
:
ASPEN VILLAGE AT LOST MOUNTAIN : CASE NO. 19-40262 - BEM
ASSISTED LIVING, LLC, :
:
DEBTOR. :

**UNITED STATES TRUSTEE'S MOTION
FOR THE APPOINTMENT OF A PATIENT CARE OMBUDSMAN**

COMES NOW Nancy J. Gargula, United States Trustee for Region 21, in furtherance of the administrative responsibilities imposed by 28 U.S.C. § 586(a) and title 11 of the United States Code, and requests the Court to enter an order directing the appointment of a patient care ombudsman pursuant to 11 U.S.C. § 333. More specifically, the United States Trustee shows the Court as follows:

1. The Court has jurisdiction to consider this Motion and the relief requested herein pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b) (2)(A).
2. Aspen Village at Lost Mountain Assisted Living, LLC (the "Debtor") filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code on February 5, 2019.
3. Debtor is a "Health Care Business" within the meaning of 11 U.S.C. § 101(27A). Bankruptcy Rule 1021(a) provides that "[u]nless the court orders otherwise, if a petition in a case under chapter 7, chapter 9, or chapter 11 states that the debtor is a health care business, the case shall proceed as a case in which the debtor is a health care business."

4. Section 333 of the Bankruptcy Code provides in part:

[i]f the debtor in a case under chapter 7, 9, or 11 is a health care business, the court shall order, not later than 30 days after the commencement of the case, the appointment of an ombudsman to monitor the quality of patient care and to represent the interests of the patients of the health care business unless the court finds that the appointment of such ombudsman is not necessary for the protection of patients under the specific facts of the case.

11 U.S.C. §333(a)(1).

5. Further, Bankruptcy Rule 2007.2(a) provides that a patient care ombudsman shall be appointed in a chapter 7, 9, or 11 case in which the debtor is a health care business “unless the court, on motion of the United States Trustee or a party in interest filed not later than 21 days after the commencement of the case or within another time fixed by the court, finds that the appointment of a patient care ombudsman is not necessary...”

6. On March 1, 2019, the Court entered an order declining to direct the United States Trustee to appoint a patient care ombudsman without prejudice to the Court later directing such an appointment or any party in interest raising the issue of such an appointment at a later date.

7. On November 26, 2019, the Court entered an order denying confirmation of Debtor’s Third Amended Plan of Reorganization (the “Confirmation Order”). The Confirmation Order allows Debtor through January 30, 2020 to further amend its plan to address section 11 U.S.C. § 1129(b).

8. Because this case will remain pending in chapter 11, the United States Trustee requests the Court enter an order directing the United States Trustee to appoint a patient care ombudsman until the earlier of (i) the Effective Date of a confirmed plan or (ii) dismissal of Debtor’s case, unless earlier terminated by order of this Court.

9. Debtor does not oppose the relief requested by this motion.

WHEREFORE, the United States Trustee requests that the Court enter an order (i) directing the United States Trustee to appoint a patient care ombudsman, and (ii) granting such other and further relief as the Court determines just and proper under the circumstances.

Respectfully submitted this 3rd day of December, 2019

NANCY J. GARGULA
UNITED STATES TRUSTEE
REGION 21

_____/s/
Lindsay P. S. Kolba
Georgia Bar No. 541621

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CERTIFICATE OF SERVICE

This is to certify that I have on this day electronically filed the foregoing *Motion for the Appointment of a Patient Care Ombudsman* using the Bankruptcy Court's Electronic Case Filing program, which sends a notice of this document and an accompanying link to this document to the following parties who have appeared in this case under the Bankruptcy Court's Electronic Case Filing program:

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I further certify that on this day, I caused a copy of this document to be served via United States First Class Mail, with adequate postage prepaid on the following parties at the address shown for each.

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Atlanta, GA 30324

/s/

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